

among us. The Simmons' family gives all they can and never gives up. They are the epitomy of what a committed, forever family, is all about. For this, I want to recognize, honor, and thank them for their passion and dedication and for being true angels in adoption I admire.●

#### MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Pate, one of his secretaries.

#### EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nomination received today is printed at the end of the Senate proceedings.)

#### MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

##### ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 6, 2009, the Secretary of the Senate, on September 24, 2010, during the adjournment of the Senate, received a message from the House announcing that the Speaker has signed the following enrolled bills:

S. 1674. An act to provide for an exclusion under the Supplemental Security Income program and the Medicaid program for compensation provided to individuals who participate in clinical trials for rare diseases or conditions.

S. 3717. An act to amend the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 to provide for certain disclosures under section 552 of title 5, United States Code, (commonly referred to as the Freedom of Information Act), and for other purposes.

S. 3814. An act to extend the National Flood Insurance Program until September 30, 2011.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUE).

#### MESSAGE FROM THE HOUSE

At 2:03 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the bill (H.R. 1517) to allow certain U.S. Customs and Border protection employees who serve under an overseas limited appointment for at least 2 years, and whose service is rated fully successful or higher throughout that time, to be converted to a permanent appointment in the competitive service.

#### ENROLLED BILLS PRESENTED

The Assistant Secretary of the Senate reported that on September 24,

2010, during the adjournment of the Senate, she had presented to the President of the United States the following enrolled bills:

S. 1674. An act to provide for an exclusion under the Supplemental Security Income program and the Medicaid program for compensation provided to individuals who participate in clinical trials for rare diseases or conditions.

S. 3717. An act to amend the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 to provide for certain disclosures under section 552 of title 5, United States Code, (commonly referred to as the Freedom of Information Act), and for other purposes.

S. 3814. An act to extend the National Flood Insurance Program until September 30, 2011.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-7540. A communication from the Director, National Institute of Food and Agriculture, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Competitive and Noncompetitive Non-formula Federal Assistance Programs—Specific Administrative Provisions for the New Era Rural Technology Competitive Grants Program" (RIN0524-AA60) received in the Office of the President of the Senate on September 21, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7541. A communication from the Secretary, Office of the Chief Accountant, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Internal Control Over Financial Reporting in Exchange Act Periodic Reports of Non-Accelerated Filers" (5 U.S.C. Section 801) received in the Office of the President of the Senate on September 20, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-7542. A communication from the Acting Deputy Director of National Marine Sanctuaries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Changes to the Florida Keys National Marine Sanctuary Regulations; Technical Corrections and Minor Substantive Changes" (RIN0648-AX34) received in the Office of the President of the Senate on September 20, 2010; to the Committee on Commerce, Science, and Transportation.

EC-7543. A communication from the Acting Deputy Director of National Marine Sanctuaries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Gulf of the Farallones, Monterey Bay and Cordell Bank National Marine Sanctuaries Technical Corrections" (RIN0648-AY20) received in the Office of the President of the Senate on September 20, 2010; to the Committee on Commerce, Science, and Transportation.

EC-7544. A communication from the Acting Deputy Director of National Marine Sanctuaries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Gray's Reef National Marine Sanctuary Regulations on the Use of Spearfishing Gear; Correction" (RIN0648-AX37) received in the Office of the President of the Senate on September 20, 2010; to the

Committee on Commerce, Science, and Transportation.

EC-7545. A communication from the Deputy Chief Counsel for Regulations and Security Standards, Transportation Security Administration, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Revision of Enforcement Procedures" (RIN1652-AA62) received in the Office of the President of the Senate on September 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC-7546. A communication from the Chief of Recovery and Delisting Branch, Endangered Species Program, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Reclassification of the Oregon Chub From Endangered to Threatened" (RIN1018-AW42) received in the Office of the President of the Senate on September 21, 2010; to the Committee on Environment and Public Works.

EC-7547. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Ruling—Over the Counter Drugs" (Rev. Rul. 2010-23) received in the Office of the President of the Senate on September 20, 2010; to the Committee on Finance.

EC-7548. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Child Care and Development Fund Report to Congress for Fiscal Years 2006 and 2007"; to the Committee on Finance.

EC-7549. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's Annual Report on Disability-Related Air Travel Complaints; to the Committee on Health, Education, Labor, and Pensions.

EC-7550. A communication from the Deputy Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Cardiovascular Devices; Reclassification of Certain Percutaneous Transluminal Coronary Angioplasty (PTCA) Catheters" (Docket No. FDA-2000-P-0924) received in the Office of the President of the Senate on September 21, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-7551. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's report entitled "Report to Congress on a Plan for The Proposed Head Start Program Designation Renewal System"; to the Committee on Health, Education, Labor, and Pensions.

EC-7552. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report to Congress by the Interagency Access to Health Care in Alaska Task Force; to the Committee on Health, Education, Labor, and Pensions.

EC-7553. A communication from the Chief Privacy Officer, Privacy Office, Department of Homeland Security, transmitting, pursuant to law, a report entitled "DHS Privacy Office 2010 Annual Report to Congress"; to the Committee on Homeland Security and Governmental Affairs.

#### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-142. A joint resolution adopted by the Legislature of the State of California urging

Congress to protect and preserve the ability of California wineries, as all American wineries, to ship wine directly to consumers without discrimination between in-state and out-of-state wine producers; to the Committee on the Judiciary.

#### SENATE JOINT RESOLUTION NO. 34

Whereas, California is the fourth largest wine producing region in the world, after France, Italy, and Spain; and

Whereas, California has 2,972 bonded wineries; and

Whereas, California has 4,600 winegrape growers; and

Whereas, California has 531,000 acres of winegrapes; and

Whereas, California winegrowers ship over 193 million cases, representing some 467 million gallons of wine to the United States wine market; and

Whereas, the California wine industry creates more than 330,000 jobs, billions of dollars in economic impact, and preserves agricultural land and family farms; and

Whereas, the California wine industry generates higher taxes than most industries because, as a regulated industry, it pays excise taxes to the state and federal government on every gallon of wine; and

Whereas, the California wine industry has an annual impact of \$61.5 billion on the state's economy and produces the number one finished agricultural product in the state; and

Whereas, the economic impact of the United States wine industry on the national economy is \$121.8 billion annually; and

Whereas, California's wine industry attracts 20.7 million tourists annually to all regions of California and generates wine-related tourism expenditures of \$2.1 billion; and

Whereas, currently 37 states and the District of Columbia allow direct shipping of wine from winegrowers to consumers; and

Whereas, the innovation and entrepreneurial spirit of small California wineries drives the entire industry to improve and progress; and

Whereas, in order to reach consumers in other states, many California wineries have turned to direct marketing and shipping of their wines; and

Whereas, since 1985 California has pioneered consumer access to wine through reciprocal and permit shipping to alleviate scarcity at the retail level of California wines; and

Whereas, over the past 10 years, consolidation trends within the wholesale tier have made it difficult for California wineries to achieve adequate distribution, and, as a result, have limited consumer choice; and

Whereas, California wineries have offered voluntarily to have their direct marketing and shipping permitted and regulated by other states to ensure that those states collect the same taxes that wines sold through the three-tier system must pay, that direct deliveries would be made only to adults, and that direct deliveries are not made in "dry" areas, as defined under the laws of each state; and

Whereas, the California wine industry has developed comprehensive model direct shipping legislation to address all of the concerns expressed by state alcohol regulators across the country; and

Whereas, California has enacted a law to open direct shipping of wine from other states to its own residents without limitation through a simple permit system to comply with the decision in *Granholm v. Heald* (2005) 544 U.S. 460; and

Whereas, States' rights to regulate wine and alcohol granted by the 21st Amendment to the United States Constitution have al-

ways been subject to constitutional limitation and judicial review; and

Whereas, court decisions over the last 40 years balance state authority to regulate alcohol with the framers' belief that the nation would only succeed if interstate commerce thrived; and

Whereas, the Commerce Clause has been applied judiciously by the courts to foster national economic goals while preserving nondiscriminatory state authority; and

Whereas, the landmark 2005 United States Supreme Court case, *Granholm v. Heald*, reaffirmed states' rights under the 21st Amendment to the United States Constitution to regulate wine as long as they do not discriminate between in-state producers and out-of-state producers, and correctly ruled that these rights do not supersede other provisions of the Constitution; and

Whereas, H.R. 5034 would severely limit consumer choice in California wine throughout the nation as direct-to-consumer laws are amended or repealed; and

Whereas, H.R. 5034 would imperil market access for California wineries that cannot secure effective wholesale distribution; and

Whereas, H.R. 5034 would stunt competition among the nation's 7,011 wine producers as markets are artificially constrained and access is limited; and

Whereas, H.R. 5034 would allow certain state alcohol laws to avoid judicial scrutiny through a presumption of validity; and

Whereas, H.R. 5034 would reverse decades of long-established jurisprudence that has balanced interstate commerce concerns with state regulatory authority and fostered a dramatic growth in wine production, sales, and tax revenue; and

Whereas, H.R. 5034 would insulate and sanction discriminatory state laws by reversing evidentiary rules for Commerce Clause legal challenges and increasing the burden of proof of plaintiffs; and

Whereas, H.R. 5034 would frustrate legitimate challenges to superficially neutral, but nonetheless discriminatory, state laws like the landmark Massachusetts production cap case, *Family Winemakers of California v. Jenkins* (2010) 592 F.3d 1; and

Whereas, H.R. 5034 would be an unprecedented shift in the relationship between federal and state authority over wine; Now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly,* That the Legislature of the State of California hereby respectfully urges Congress to protect and preserve the ability of California wineries, as well as all American wineries, to ship wine directly to consumers without discrimination between in-state and out-of-state wine producers; and be it further

*Resolved,* That the Legislature of the State of California urges the defeat of H.R. 5034; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the President pro tempore of the United States Senate, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM-143. A resolution from the Legislature of Rockland County, New York relative to the Safe Drinking Water Act and hydraulic fracturing; to the Committee on Environment and Public Works.

POM-144. A resolution from the Legislature of Rockland County, New York urging Congress to pass the Veteran Employment Assistance Act of 2010; to the Committee on Veterans' Affairs.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 349. A bill to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, and for other purposes (Rept. No. 111-303).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 607. A bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that are subject to ski area permits, and for other purposes (Rept. No. 111-304).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment:

S. 745. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Magna Water District water reuse and groundwater recharge project, and for other purposes (Rept. No. 111-305).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1117. A bill to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont (Rept. No. 111-306).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1320. A bill to provide assistance to owners of manufactured homes constructed before January 1, 1976, to purchase Energy Star-qualified manufactured homes (Rept. No. 111-307).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1596. A bill to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California (Rept. No. 111-308).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

S. 1651. A bill to modify a land grant patent issued by the Secretary of the Interior (Rept. No. 111-309).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1689. A bill to designate certain land as components of the National Wilderness Preservation System and the National Landscape Conservation System in the State of New Mexico, and for other purposes (Rept. No. 111-310).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 1750. A bill to authorize the Secretary of the Interior to conduct a special resource study of the General of the Army George Catlett Marshall National Historic Site at Dodona Manor in Leesburg, Virginia, and for other purposes (Rept. No. 111-311).

S. 2052. A bill to amend the Energy Policy Act of 2005 to require the Secretary of Energy to carry out a research and development and demonstration program to reduce manufacturing and construction costs relating to nuclear reactors, and for other purposes (Rept. No. 111-312).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute: